

**ANDOVER BOARD OF HEALTH**  
**Minutes**  
**June 10, 2013, 6:00 P.M.**  
**CD&P First Floor Conference Room**  
**36 Bartlet Street**

The Board of Health Meeting was called to order at 6:05 p.m. Present were Ms. Candace Martin, Chairman Ms. Katherine Kellman, Vice-Chairman, and Mr. Thomas G. Carbone, Director of Public Health.

Clerk, Gopala K. Dwarakanath, M.D., arrived at the meeting at 6:10 p.m.

**I. Approval of Minutes**

- **May 13, 2013**

*Motion by Ms. Martin, seconded by Ms. Kellman, to approve the Minutes of May 13, 2013. Unanimous approval.*

**II. Appointments & Hearings**

- **6:00 p.m. – Sun Son for Boston King Café - Show Cause Hearing, Status Update**  
– Present were Sun Son, owner, and employee Rory Linn. Mr. Carbone reported that Boston King Café had three inspections done since the January Board of Health Meeting; February, March<sup>1</sup> and May. Ms. Martin noted that in the March Inspection Report, a comment was made that David was the only Person in Charge (PIC) who seemed to be aware of the regulations and proper needs for compliance. She asked Mr. Son if that had been improved upon. Mr. Son replied that both he and his wife are also ServeSave Certified. Ms. Martin stated that she didn't see recurring issues as before and wants Mr. Son's perspective on what has gone on in the past three months, what has changed and what he will continue to do. Mr. Son replied that his Private Inspector, Ms. Michelle Cramm, has meetings with the staff to answer questions and explain what mistakes are being made and why it is important to follow her instructions. Mr. Carbone stated that he felt that Mr. Son now knows the proper things to be done and recommended that the Board close the Show Cause Hearing with no further action.

*Motion by Ms. Martin, seconded by Ms. Kellman, to close the Show Cause Hearing with no further action. Dr Dwarakanath abstained. Unanimous approval.*

- **6:15 p.m. – Jon Thorgilsson for Ninety-Nine Restaurant – Show Cause Hearing (Separate insert enclosed in Agenda Packet)-** Present were Jared Eigerman, Attorney, Jack Craig, Operations Director for the region, and Lou Martin, the new General Manager of the Ninety-Nine Restaurant. Mr. Carbone stated that on the

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<sup>1</sup> A copy of the March Inspection Report was given to the Board Members, and is added to the 6/10/2013 Agenda Packet after page 10.

Saturday of Memorial weekend, our contract Inspector, Michelle Grant, stopped in the Restaurant for an inspection and was very concerned with the dirty condition the establishment was left in from the night before. The condition of the hood system was dirty with grease buildup, there was standing water on the grill line, and weakening of the floor indicating damage. The conditions were so bad that Ms. Grant requested that Mr. Carbone join her. Mr. Thorgilsson, General Manager, made the decision to voluntarily close the restaurant.

Mr. Carbone called the Fire Department and the Deputy Fire Chief came to the restaurant. When he saw the condition of the grill hood system, he required an immediate cleaning of the system, even though it had been cleaned six weeks earlier. Mr. Carbone allowed them to do the cleaning and then allowed them to open back up at 3 p.m.

Mr. Craig stated that when he saw the pictures he was horrified. He realized that Mr. Thorgilsson was not using his authority to supervise correctly and had disregard for the restaurant, so he was let go. Dr. Dwarakanath noted that Mr. Craig stated that he saw the hood after it was cleaned and then two days later it was filthy, so he asked how there could be such rapid buildup in only two days. Mr. Carbone explained that within the hood system there are filters that come down to be cleaned, but that wasn't done. Most of the buildup was on the screens, but also on the linkage. Ms. Martin asked what good a closing checklist is if it is not being followed. Mr. Craig stated that he has a newfound commitment to make sure the checklist gets followed. Ms. Martin asked about the physical problems at the restaurant now. Mr. Craig stated that he was aware of physical problems for a while, and a construction crew started working on the problems last night. Old flooring was removed, new plywood was put on, and a new membrane floor will be installed. This week all equipment was power washed and the dining room and tables were cleaned.

Mr. Lou Martin has been newly appointed as the General Manager. He stated that he plans on running a tight ship and making sure that things stay clean. Three people that are ServeSafe certified are on staff now. Going forward, Mr. Craig plans to be more vigilant and will come in for more inspections to make sure all checklists are being followed and everything is clean. Mr. Craig and Mr. Lou Martin stated that they will keep the lines of communication open with the staff and that more enforcement will be done concerning cleaning.

*Motion by Ms. Martin, seconded by Dr. Dwarakanath, to close the Show Cause Hearing without any further action, but will continue to monitor as they have in the past. Unanimous approval.*

- **6:30 p.m. – Stephen Stapinski for Ferry Crossing Subdivision – Request for Sewer Forcemain Special Permit** - Mr. Stephen Stapinski from Merrimack Engineering, and owners Mr. Anthony Misetti and Mr. Joseph Germano were present. Mr. Stapinski stated that they are requesting this special permit to install force mains within the subdivision to service six residential lots. The proposal is to subdivide into six single family lots. They will be extending a water main into the site

and will be bringing the sewer line up from Cross Street along River Road and each home will have sewer pumps.

Ms. Martin asked if they are designing the main to accommodate the extension and what kind of capacity will the line be sized for. Mr. Stapinski stated that the sewer line is designed with more than enough capacity for this project and other sewer connections west of the site as well. The Board looked at the delineation of wetlands because there are wetlands in the front as well as the back along the Avis land. Mr. Stapinski informed the Board that they are filing a Notice of Intent with the Conservation Commission on June 18, 2013 and have filed with the Planning Board for its meeting on June 11, 2013. The previous owner buried tires in a tire dump in the back area, so the developer will remove them all from the site.

Ms. Martin asked if a Homeowners Association (HOA) is being established. Mr. Stapinski replied that there will be a HOA responsible for maintaining and inspecting the infiltration drainage system on the site and will also be responsible for enforcing the covenants regarding any infiltration on the house lots. Mr. Stapinski thought that Mr. Carbone's recommendation to the Board was that the homeowners be responsible up to the tank and that the HOA be responsible from the tank to the street, but Mr. Stapinski stated they would prefer each homeowner to be responsible for their own force main, at least from the tank to the easement. Mr. Carbone stated that in talking to the DPW last week, the thought was that any piping that was within the easement should belong to the HOA and anything outside of the easement should belong to the homeowner. Then if the developer wants to utilize just one shared force main within the easement, that could be done, or they could continue on with the three individual force mains.

Ms. Martin asked about the routing of the sewer lines which were not below the water lines. Mr. Stapinski stated that they may resolve that issue by putting in a requirement that there will be a sleeve 10' to each side to protect the water line. The problem is that the water main requirement is 5' of cover, so to try to get the force main under the water main is difficult without putting a bend in the line. If there is a bend in the line, you end up with a low point in the force main and it doesn't drain back to the pump station.

*Motion by Ms. Martin, seconded by Ms. Kellman to continue the Sewer Forcemain Special Permit request to the regularly scheduled Board of Health Meeting on July 15, 2013 at which time the Special Permit will be rewritten so that it puts the responsibilities with the homeowners for their own pumps. Unanimous approval.*

- **6:40 p.m. – David Pierre for Orange Leaf Yogurt, Request for Variance to Mobile Food Service Requirements (Separate insert enclosed in Agenda)** – Mr. Carbone noted that Mr. Pierre was not present at the meeting. He informed the Board that the request is the same as for the Mess Haul (see next bullet below). Mr. Carbone also spoke with other Health Agents who have Orange Leaf in their communities and discussed the operations. Mr. Carbone supports this Variance and thinks that they

have a proposal that will address the concerns. Ms. Martin noted that the trucks are all new and made for this function.

*Motion by Ms. Martin, seconded by Ms. Kellman, to approve the Variance to Mobile Food Service Requirements for Orange Leaf to allow them to operate from a facility without overhead protection, with the following conditions:*

- 1. All food being transported between the store and the trailer must be sealed in original packaging, in containers with snap tight or screw on covers, or otherwise protected from contamination.*
- 2. All cleaned and sanitized equipment being transported between the store and the trailer must be carried in covered containers or otherwise protected from the environment.*
- 3. Wastewater shall be discharged directly to an approved wastewater treatment facility, to a pump truck designed to take the waste away, or shall be directly connected via a hose connected to the trailer discharge and a waste pipe that sends the wastewater through a pretreatment device. It shall not be disposed of via a storm drain, or sink system not approved by the town.*

*Unanimous approval.*

- **6:45 p.m. – Stephanie Auchterlonie and Mark Stout for Mess Haul Mobile Food – Request for Variance to Mobile Food Service Requirements** – Present were Stefanie Auchterlonie and Mark Stout. Mr. Carbone explained to the Board that he has been working with the applicants to get a food truck operating. Mobile stations need hot and cold running water and a place for wastewater. The mobile vehicle has to be brought to a servicing area for cleaning such as a kitchen or a facility that is licensed by a Health Department or a Commissary. The servicing area needs to be covered in order to protect the food as it is being taken from the preparation area to the truck and the equipment from the cleaning area to the truck. Mr. Stout stated that their truck has all the equipment inside the truck and it is like a restaurant kitchen inside. When they transfer the food, they will put it on a rolling rack covered by plastic wrap, as well as two other covers. Ms. Auchterlonie stated that they will use the kitchen at the Greater Lawrence Technical School. There will only be one trip there daily and they would unload produce in about the same time as a restaurant would. The back door is sealed, and the window is screened. Dr. Dwarakanath asked about the ventilation and air conditioning. Mr. Stout replied that the hood in the roof has stainless steel filters, an Ansel system like restaurants have, and air conditioning which is all run by a large generator. Mr. Carbone explained that they will be returning to the Tech for food prep, cleaning, and water. They also have a treatment plant to empty the wastewater at. Mr. Carbone recommended that the Board approve the variance with certain conditions.

*Motion by Ms. Martin, seconded by Ms. Kellman, to approve the Variance to Mobile Food Service Requirements for Mess Haul to allow them to operate from a facility without overhead protection, with the following conditions:*

1. *All food being transported between the store and the trailer must be sealed in original packaging, in containers with snap tight or screw on covers, or otherwise protected from contamination.*
2. *All cleaned and sanitized equipment being transported between the store and the trailer must be carried in covered containers or otherwise protected from the environment.*
3. *Wastewater shall be discharged directly to an approved wastewater treatment facility, to a pump truck designed to take the waste away, or shall be directly connected via a hose connected to the trailer discharge and a waste pipe that sends the wastewater through a pretreatment device. It shall not be disposed of via a storm drain, or sink system not approved by the town.*

*Unanimous approval.*

### **III. Discussion**

- **Staff Appointments** - In accordance with the provisions of M.G.L.c. 111, §30, the Board of Health appoints the following persons to serve as its agents and officers for the fiscal period of July 1, 2013 through June 30, 2014, and beyond as necessary to serve at the pleasure of the Board. Said appointments are for regulatory authority only and do not guarantee any salary or fee.

#### **Permanent Staff**

**Thomas G. Carbone** as Director of Public Health

**Joanne Martel, R.N.** as Assistant Director of Public Health/Public Health Nurse

**Daniel H. Tremblay** as Sanitarian

**Patricia Crafts** as Health Agent.

**Jane Morrissey, R.N.,** as Public Health Nurse

**Ronald Beauregard** as Agent (Healthy Communities Tobacco Control Program)

**Robert Douglas** as Agent (Conservation Director)

**Linda Cleary** as Agent (Conservation Agent)

**Richard Danforth** as Agent (Plumbing Inspector)

**David Dargie** as Agent (DPW Construction Engineer)

**David Nichols** as Agent (Medical Reserve Corps)

**Anthony Turiano, M.D.** as Board of Health Physician

#### **Contract Staff (on call as needed)**

**Michelle Grant** as Agent

**Charlene Gagnon** as Public Health Nurse

**Nanci MacKenzie** as Public Health Nurse

**Kay Devanna** as Public Health Nurse

**Emergency Appointments** – In accordance with the provisions of M.G.L.c. 111, §30, the Board of Health hereby authorizes the Director of Public Health or the next person in succession to make emergency appointments of Health Agents

with the verbal approval of the Chairman of the Board of Health or a member in succession, and the Town Manager. Said appointments shall expire in 7 days unless otherwise extended by the Board of Health, and shall be for emergency purposes only.

*Motion by Ms. Martin, seconded by Ms. Kellman, to approve Staff Appointments as noted for Permanent Staff, Contract Staff, and Emergency Appointments. Unanimous approval.*

- **Free Breast Exam Project Proposal by Dr. Dwarakanath (Not on Agenda)** – Ms. Martin wanted to make a comment on the October plans for breast cancer awareness that Dr. Dwarakanath has proposed. She has worked with the YWCA & Greater Lawrence and maybe there is a partnership and joint effort we could leverage off each other's efforts. As we talk more about this, if the Board members are interested, she can get them in touch with the right people. Ms. Martin stated that she did not need the doctors' names at this time, but will at a later date. She stated that this is a great program and looks forward to more discussions on the subject.
- **Set Meeting Schedule through September** – The Board decided on the following schedule for the Board of Health Meetings for the remainder of the year: Monday, July 15, 2013, Monday, August 12, 2013, Monday, September 16, 2013, Monday, October 21, 2013, November 18, 2013, and Monday, December 16, 2013.
- **Mosquito Questions (Not on Agenda)**- Dr. Dwarakanath asked about a property that he thought no one could build on because of wetland issues. He noted that there is a new house that had a small amount of water in the yard, but that water now looks like a pond. The house is in the Hay Bale and Bailey Road area. Mr. Carbone stated that the large amount of water could be because of beaver issues. Dr. Dwarakanath wanted to know what the policy is concerning stagnant water and mosquitoes. Mr. Carbone stated that with naturally occurring wetlands we work with the Mosquito Control District to do larvaciding and that we very seldom spray for adult mosquitoes. The District comes through and treats the catch basins. The only time the Town will spray is if there is a public health threat.
- **Pomps' Pond Closing (Not on Agenda)** – Mr. Carbone stated that he did issue a no swimming ORDER at Pomp's Pond. The DPW went out to check and noticed blue green algae. There was a little last year, but this year there are rafts of algae. It was found outside of the swimming area, but is a toxin in the water and the concern is that we could be looking at a long term closing if we cannot stop it from spreading. Last week there was fecal contamination from animals, and with contamination there are nitrates. With the heavy rains, if properties nearby have fertilized their lawns, those toxins could get into water. Ms. Kellman asked how the water will be treated. Mr. Carbone explained that the town pays a company that comes in and treats the water with copper sulfate to decrease the amount of weeds. We know that the toxins can make dogs sick and young children would be more likely to ingest some of the water. People could end up with a rash or could have gastro intestinal problems if the water

is consumed. DPW will be keeping an eye on the situation and will keep Health informed.

#### IV. Old Business

- **26 Orchard Crossing – Status Update on Sewer Connection** – Mr. Carbone explained to the Board that he got a phone call from a Drain Layer who stated that he may be doing the sewer installation, but so far no permit has been pulled and he has not received any word from the homeowner. Ms. Martin stated that she was very disappointed that the Board did not have a commitment from the homeowners and wants Mr. Carbone to place a consideration of Condemnation for the July meeting if they have not connected to sewer by July 15, 2013. Mr. Carbone stated that he will send them a letter this week.

#### V. Definitive Subdivision Plans

- **Ferry Crossing – Definitive Subdivision (River Road)** – Mr. Carbone recommended approval of this six lot cluster subdivision on River Road, subject to conditions for a Special Permit for force mains, any modifications or changes be resubmitted, and subject to Conservation Commission approvals.

*Motion by Ms. Martin, seconded by Ms. Kellman to approve the Definitive Subdivision, Ferry Crossing (River Road) with the following conditions:*

1. *The applicant must obtain a Special Permit from the Board of Health for the construction and use of the private sewer force mains.*
2. *Any modification, amendment, or change to the above-cited Definitive Plan shall be submitted as a new or modified Definitive Plan in accordance with the provisions of MGL Chapter 41, Section 81U.*
3. *Subject to Conservation Commission approval of the above dated plan by Order of Conditions or Negative Determination.*

*Unanimous approval.*

- **Gemini Road – Definitive Subdivision (Boutwell Road)** – Mr. Carbone explained to the Board that the Applicant has withdrawn his application. Mr. Carbone gave the Board a copy of the withdrawal letter from Matthew Hamor, Project Manager, which was sent to Ms. Jacki Byerley of the Andover Planning Division.<sup>2</sup> There are some issues that have to be dealt with such as not having all required site testing done. The Perc tests have been slow, so two back lots have not been done yet due to the high water table. There is a concern with the catch basin locations as well. There is an IDR (Interdepartmental Review) scheduled for tomorrow, and hopefully when they re-file they will have addressed all our concerns.

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<sup>2</sup> A copy of the withdrawal letter sent to Ms. Jacki Byerley of the Andover Planning Board will be added to the Agenda Packet after page 40.

**VI. Plan Review**

- **DWRP – Variances/Local Upgrade Approval**
  - N/A

**VII. Staff Reports**

**A. Director's Reports:**

- **Important Dates:**
  - July 6 to 14, 2013 - Director's Vacation
  - July 15, 2013 at 6 p.m. – Board of Health Meeting

**B. Nurses' Report for May, 2013** – The Nurses' Report for May, 2013, was for informational purposes only.

**C. Inspectors' Report for May, 2013** – The Inspectors' Reports for May, 2013, were for informational purposes only.

**VIII. Board Member Reports**

- N/A

**IX. Adjournment**

*Motion by Ms. Martin, seconded by Ms. Kellman, to adjourn at 7:45 p.m. Unanimous approval.*